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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,773	11/14/2005	Anthony B. Fuller	5658/2	2436
24239	7590	10/09/2008		
MOORE & VAN ALLEN PLLC			EXAMINER	
P.O. BOX 13706			WATSON, ROBERT C	
Research Triangle Park, NC 27709			ART UNIT	PAPER NUMBER
			3723	
MAIL DATE		DELIVERY MODE		
10/09/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/520,773

**Applicant(s)**

FULLER ET AL.

**Examiner**

Robert C. Watson

**Art Unit**

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.  
4a) Of the above claim(s) 21-39 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-20, 40, 41 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

Claims 1-20, 40, and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "that opens the clamping jaw" is vague and indefinite since it is unclear what particular structure is doing the openings. It is unclear what is meant by a "force aligned in the first direction" and there appears to be no support in the specification for this terminology.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Heinrich and Seber et al.

Lee shows an ear 42 that is capable of being actuated from the front and the side of the handle in order to place the braking lever in the release position. To fashion this ear such that it extends through a slot or hole in the side of the handle would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Heinrich. Note that in Heinrich ear 40 extends through a hole or slot in the side of the housing and operation of this ear releases braking lever as particularly shown in Figure 2 of Heinrich. To provide an ear on each side of the handle instead of only one side of the handle is no more than an obvious duplication of the ear structure taught by Heinrich. For example, one skilled in the art could obviously apply

the teachings of Heinrich, which suggests a side location for the ear through a side slot, by merely fixedly attaching a pin to the side of ear 42 in Lee and extending it through the side plate 12 by including a slot to receive the pin as broadly taught by the slot and pin 242,246 in the handle of Seber et al. One skilled in the art would be motivated to do this in order to provide convenient pin actuation. To attach such a pin/slot additionally to the other side plate in Lee would be an obvious duplication of the pin/slot on the first side plate. One skilled in the art would know and find it obvious as to which direction to make the slot in order to have the ear projection function properly.

Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Heinrich and Seber et al supra and further in view of De worth.

The cam that the ear actuates supra is an elliptical cam. However, trapezoidal cams are also well known and obvious for performing locking/unlocking functions with respect to mechanical elements. To make the cam supra in a trapezoidal rib shape would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of De worth. Note in De Worth the trapezoidal shaped cam is has ears 13 for actuation of the cam. One skilled in the art would be able to make the substitution even though the cams are very different shapes.

Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Heinrich and Seber et al and Drake.

Drake teaches that an ear 25 extending through a slot 44 engages the edges of the slot to limit the ear's movement in the slot. Drake also teaches that the force to actuate this ear is parallel to the first direction.

To use the edges of the slot supra to limit the ear's movement in the slot would have been obvious in view of the Drake disclosure. The directions specified in the claim are seen to be the same directions disclosed in the references.

To direction of the slot that the pin moves in is no more than an obvious matter of design choice dictated by the desired convenience desired absent a showing of criticality for this feature. The pin could obviously be attached to the ear 42 such that the pin moves in a slot substantially in the first direction in view of the teachings of Drake. One skilled in the art would have been motivated by convenience to choose such a direction.

Claims 21-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7/12/07 and 4/30/08.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 571 272-4498. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert C. Watson/

Primary Examiner, Art Unit 3723

rcw